

TD 98/D1 - Income tax: capital gains: when are shares acquired, and instalments paid, under the Commonwealth Bank of Australia (CBA) and Telstra public share offers? .

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This document has been finalised by TD 98/11.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: capital gains: when are shares acquired, and instalments paid, under the Commonwealth Bank of Australia (CBA) and Telstra public share offers?

Background

1. Investors in the CBA and Telstra public share offers were invited by the Commonwealth to make offers to purchase shares in the respective companies. Payment for the shares was to be made in two instalments. In both cases, the first instalment was to accompany the application with a final instalment to be made on a later specified date. In the Telstra offer, some investors were guaranteed an entitlement to a certain number of shares at the time that their offer to purchase shares was received by the Commonwealth. In the public share offer documents subscribers were advised that indexation of the cost base will apply to the amount of the first and final instalments from the dates they are paid. In this Taxation Determination, we express our view on when the shares are acquired and when the instalments are paid.

Date of acquisition of shares and time of payment of the first instalment

2. For capital gains tax purposes, the date of acquisition of the shares is the date on which shares are allocated to an investor (whether or not the allocation was previously guaranteed). This is the date on which the offer to purchase the shares is accepted and the contract for the purchase of the shares is made.

3. It is only on allocation of shares to an investor that the parties were contractually bound by the terms of the share sale. It was only at that time, therefore, that the first instalment was paid. Indexation of the first instalment amount is available from the date on which shares are allocated to an investor. For the CBA share sale, allocation occurred on 13 July 1996. For the Telstra share sale, allocation occurred on 16 November 1997.

Time of payment of the final instalment

4. The final instalment will be taken to have been paid when it is received by the relevant trustee on behalf of the Commonwealth as vendor. Indexation of the final instalment amount is available from that time.

5. For the CBA share sale, receipt of payment by the trustee occurred on:

- (a) 14 November 1997; or
- (b) the earlier date on which a discounted sum paid in satisfaction of the final instalment was received by the trustee.

6. For the Telstra share sale, receipt of payment by the trustee and transfer of title to the sale shares will occur on or around 17 November 1998 when the final instalment is due for payment.

7. For convenience, the information above is summarised in the following table:

Table

	Commonwealth Bank of Australia (CBA)	Telstra
First instalment	Date of allocation of shares - 13 July 1996.	Date of allocation of shares - 16 November 1997.
Final instalment	The date of receipt by the trustee of: (a) the final instalment on 14 November 1997; or (b) the discounted sum paid earlier.	Date of receipt by the trustee of the payment due on 17 November 1998.

Your comments

8. If you wish to comment on this draft Determination, please send your comments by 27 February 1998 to:

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Commissioner of Taxation

28 January 1998

FOI INDEX DETAIL: [Reference No.](#)

[Related Determinations:](#)

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[Subject Ref:](#) acquisition of shares; capital gains; capital gains tax; indexation; instalments; sale shares; shares

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